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DEPARTMENT OF EDUCATION

[Docket ID ED-2016-FSA-0014]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), 5 U.S.C. 552a, the Chief Operating Officer, Federal Student Aid, of the U.S. Department of Education (Department) publishes this notice proposing an altered system of records for the Office of the Student Loan Ombudsman Records (18-11-11).

The Department created the Office of the Student Loan Ombudsman Records system to support the administration of title IV of the Higher Education Act of 1965, as amended (HEA); to receive, review, and attempt to resolve complaints from customers of Federal Student Aid programs, and to resolve such complaints within the Department and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs; and to compile and analyze data on borrower complaints and make appropriate recommendations.

The Department seeks comments on the altered system of records described in this notice, in accordance with the

requirements of the Privacy Act.

DATES: Submit your comments on this notice of an altered system of records on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Department filed a report describing the altered system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on February 23, 2016. This altered system of records will become effective on the later date of: (1) the expiration of the 40-day period for OMB review on April 4, 2016, unless OMB waives 10 days of the 40-day review period for compelling reasons shown by the Department; or (2) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the system of records requires changes as a result of public comment or OMB review. The Department will publish any changes to the altered system of records resulting from public comment or OMB review.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by

fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the term "Office of the Student Loan Ombudsman Records" at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the "Help" tab.

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about this system of records, address them to: Joyce DeMoss, Ombudsman/Director, Ombudsman Group, Customer Experience, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., 4th Floor/MC-5144, Union Center Plaza (UCP), Washington, DC 20202-5144. Telephone: (202) 377-3992.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters

should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing

the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Ombudsman/Director, Ombudsman Group, Customer Experience, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., 4th Floor/MC-5144, Union Center Plaza (UCP), Washington, DC 20202-5144. Telephone: (202) 377-3992.

If you use a telecommunications device for the deaf or text telephone, call the Federal Relay Service, toll free, at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Preamble

The Privacy Act (5 U.S.C. 552a (e) (4) and (11)) requires the Department to publish in the Federal Register this notice of an altered system of records. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to information about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with the individual, such as a name or Social Security number (SSN). The information about the individual is called a "record," and the system, whether manual or computer based, is called a "system of records."

The Privacy Act requires agencies to publish a notice in the Federal Register and to prepare a report to the Administrator of the Office of Information and Regulatory Affairs, OMB whenever the agency publishes a new system of records or makes a significant change to an established system of records. Each agency is also required to send copies to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House Committee on Oversight and Government Reform. These reports are intended to permit an evaluation of the

probable or potential effect of the proposal on the privacy rights of individuals.

This system collects records on individuals who are, were, or may be participants in any of the Student Financial Assistance Programs under title IV of the HEA, and who request assistance, directly or through a designated third party, from the Ombudsman. The Office of the Student Loan Ombudsman Records system collects the information for a number of purposes related to the duties and responsibilities of the Ombudsman, including: verifying the identities of individuals; recording complaints and comments; tracking individual cases through final resolution; reporting trends; analyzing the data to recommend improvements in Student Financial Assistance Programs; and assisting in the resolution of disputes.

The Office of the Student Loan Ombudsman Records system consists of a variety of records that identify the individuals' complaints, requests for assistance, or other inquiries. Records include, but are not limited to: written documentation of the individual's complaint, request for assistance, or other comment or inquiry; and information pertaining to the student's or parent's title IV Student Financial Assistance Program account(s), such as the person's name, SSN, date of birth, address, telephone

number(s), and Federal Student Aid ID (FSA ID).

Additionally, records include the name, address, and phone numbers of school(s), lender(s), secondary holder(s) or lender(s), guaranty agency(ies), servicer(s), and private collection agency(ies), if applicable.

On December 27, 1999, the Department published the first Privacy Act System of Record Notice (SORN) issuance for the Office of the Student Loan Ombudsman Records. This SORN has not been amended since this original date of publication. Given the amount of time that has passed, we have provided a summary of the changes and the corresponding rationale.

First, we altered the system location section because the Office of the Student Loan Ombudsman Records system will now be hosted by a cloud provider.

Second, we amended routine uses (1), (2), and (3). We modified routine use (1), Program Disclosure, to permit disclosures to be made for additional programmatic reasons to private collection agencies and Federal agencies in order to obtain further information about a complaint, request for assistance, or other inquiry before it can be resolved. Routine use (2), Disclosure for Use by Other Law Enforcement Agencies, and routine use (3), Enforcement Disclosure, were both modified to remove the limitation

that disclosures could only be made for possible violations of criminal laws and civil fraud and to permit disclosures to be made for other possible civil or administrative violations of the law.

Third, we added new routine uses (9), (10), and (11). Routine use (9), Borrower Complaint Disclosure, was added to accommodate sharing data regarding borrower complaints that were filed by borrowers with other agencies, such as the Consumer Financial Protection Bureau (CFPB). We added routine use (10), Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure, so that we could make disclosures from this system to OMB and the Department of Justice (DOJ) to obtain advice on FOIA and Privacy Act requests for records in this system of records.

Lastly, we added routine use (11), Disclosure in the Course of Responding to a Breach of Data, to comply with OMB's guidance, in OMB Memorandum 07-16, which advised the Department to add this routine use to appropriate systems.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this

document, as well as all other documents of this Department published in the Federal Register, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.
Dated: March 2, 2016.

James W. Runcie,
Chief Operating Officer,
Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer of Federal Student Aid of the U.S. Department of Education (Department) publishes a notice of an altered system of records to read as follows:

SYSTEM NUMBER: 18-11-11

SYSTEM NAME:

Office of the Student Loan Ombudsman Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Salesforce Data Center, primary data center in 44521 Hastings Drive, Ashburn, VA 20147. The system is accessible via the Internet to different categories of users, including Department personnel, customers, and designated agents of the Department. As a result, these users may be at any location where they have Internet access.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who are, were, or may be participants in any of the Student Financial Assistance Programs under title IV of the Higher Education Act of 1965, as amended (HEA), and who request assistance, directly or through a designated third party, from the Ombudsman.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records that identify the individuals' complaints, requests for assistance, or other inquiries. Records include, but are not limited to: written documentation of the individual's complaint, request for assistance, or other comment or inquiry; and information pertaining to the student's or parent's title IV Student Financial Assistance Program account(s), such as the person's name, Social Security number (SSN), date of birth, address, telephone number(s), and Federal Student Aid ID (FSA ID). Additionally, records will include the name, address, and phone numbers of school(s), lender(s), secondary holder(s) or lender(s), guaranty agency(ies), servicer(s), and private collection agency(ies), if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 141(f) of the HEA (20 U.S.C. 1018(f)).

PURPOSE(S) :

The information contained in this system will be used for a number of purposes related to the duties and responsibilities of the Ombudsman, including: verifying the identities of individuals; recording complaints and comments; tracking individual cases through final resolution; reporting trends; analyzing the data to

recommend improvements in Student Financial Assistance Programs; and assisting in the resolution of disputes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) Program Disclosure. The Department may disclose records to Federal agencies, State agencies, schools, lenders, guaranty agencies, servicers, and private collection agencies when it is necessary to obtain further information about the complaint, request for assistance, or other inquiry before it can be resolved.

(2) Disclosure for Use by Other Law Enforcement Agencies. The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or

criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(3) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(4) Litigation and Alternative Dispute Resolution (ADR) Disclosures.

(a) Introduction. In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in such litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity if the Department has agreed to represent the employee; or

(v) The United States if the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to the DOJ. If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) Adjudicative Disclosures. If the Department determines that it is relevant and necessary to the litigation or ADR to disclose certain records to an adjudicative body before which the Department is authorized to appear, to an individual, or to an entity designated by the Department or otherwise empowered to resolve or mediate

disputes, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) Disclosures to parties, counsels, representatives, and witnesses. If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(5) Disclosure to the DOJ. The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(6) Contract Disclosure. If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) Research Disclosure. The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(8) Congressional Member Disclosure. The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(9) Borrower Complaint Disclosure. If a record is relevant and necessary to a borrower complaint regarding participants in any Student Financial Assistance Programs under title IV of the HEA, the Department may disclose a record from this system of records in the course of investigating, fact-finding, or adjudicating the complaint to: any party to the complaint; the party's counsel or

representative; a witness; or a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter. The disclosure may only be made during the course of the investigation, fact-finding, or adjudication.

(10) Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure. The Department may disclose records from this system of records to the DOJ or Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(11) Disclosure in the Course of Responding to a Breach of Data. The Department may disclose records from this system of records to appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that the security or confidentiality of information in this system has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or by another agency or entity) that rely upon the

compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records will be maintained either in hard copy or in an electronic database.

RETRIEVABILITY:

Records are indexed by SSN, name, date of birth, and case tracking number.

SAFEGUARDS:

Access to and use of these records shall be limited to those persons whose official duties require access. This includes staff members of the Office of the Student Loan Ombudsman, other Department offices, and agents of the Department. All physical access to the site where this system of records is maintained is controlled and monitored

by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system offers a high degree of resistance to tampering and circumvention. This security system limits data access to staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given unique user IDs with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

The records are retained for 10 years after cut off on close of case or final determination, and then destroyed in accordance with the Department's records retention and disposition schedule 052 FSA Ombudsman Case Files.

SYSTEM MANAGER(S) AND ADDRESS:

Ombudsman, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., room 4111, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the

Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals (e.g., borrowers), Federal agencies, State agencies, schools, lenders, private collection agencies, and guaranty agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016-05015 Filed: 3/7/2016 8:45 am; Publication Date: 3/8/2016]